

## Securities and Exchange Commission

## § 240.17Ad-15

audit committee of the board of directors.

(Secs. 2, 17(a), 17A(d) and 23(a) thereof, 15 U.S.C. 78b, 78q(a), 78q-1(d) and 78w(a))

[48 FR 28248, June 21, 1983]

### § 240.17Ad-14 Tender agents.

(a) *Establishing book-entry depository accounts.* When securities of a subject company have been declared eligible by one or more qualified registered securities depositories for the services of those depositories at the time a tender or exchange offer is commenced, no registered transfer agent shall act on behalf of the bidder as a depository, in the case of a tender offer, or an exchange agent, in the case of an exchange offer, in connection with a tender or exchange offer, unless that transfer agent has established, within two business days after commencement of the offer, specially designated accounts. These accounts shall be maintained throughout the duration of the offer, including protection periods, with all qualified registered securities depositories holding the subject company's securities, for purposes of receiving from depository participants securities being tendered to the bidder by book-entry delivery pursuant to transmittal letters and other documentation and for purposes of allowing tender agents to return to depository participants by book-entry movement securities withdrawn from the offer.

(b) *Exclusions.* The rule shall not apply to tender or exchange offers (1) that are made for a class of securities of a subject company that has fewer than (i) 500 security holders of record for that class, or (ii) 500,000 shares of that class outstanding; or (2) that are made exclusively to security holders of fewer than 100 shares of a class of securities.

(c) *Definitions.* For purposes of this rule, (1) the terms *subject company*, *business day*, *security holders*, and *transmittal letter* shall be given the meanings provided in § 240.14d-1(b); (2) unless the context otherwise requires, a tender or exchange offer shall be deemed to have commenced as specified in § 240.14d-2; (3) the term *bidder* shall mean any person who makes a tender or exchange offer or on whose behalf a tender or ex-

change offer is made; (4) a *qualified registered securities depository* shall mean a registered clearing agency having rules and procedures approved by the Commission pursuant to section 19 of the Securities Exchange Act of 1934 to enable book-entry delivery of the securities of the subject company to, and return of those securities from, the transfer agent through the facilities of that securities depository; and (5) the term *depository* refers to that agent of the bidder receiving securities from tendering depository participants and paying those participants for shares tendered. The term *exchange agent* refers to the agent performing like functions in connection with an exchange offer.

(d) *Exemptions.* The Commission may exempt from the provisions of this rule, either unconditionally or on specified terms and conditions, any registered transfer agent, tender or exchange offer, or class of tender or exchange offers, if the Commission determines that an exemption is consistent with the public interest, the protection of investors, the prompt and accurate clearance and settlement of securities transactions, the maintenance of fair and orderly markets, or the removal of impediments to a national clearance and settlement system.

(Secs. 2, 11A(a)(1)(B), 14(d)(4), 15(c)(3), 15(c)(6), 17A(a), 17A(d)(1), and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78b, 78k-1(a)(1)(B), 78n(d)(4), 78o(c)(3), 78o(c)(6), 78q-1(a), 78q-1(d)(1) and 78w(a)))

[49 FR 3071, Jan. 25, 1984]

### § 240.17Ad-15 Signature guarantees.

(a) *Definitions.* For purposes of this section, the following terms shall mean:

(1) *Act* means the Securities Exchange Act of 1934;

(2) *Eligible Guarantor Institution* means:

(i) Banks (as that term is defined in section 3(a) of the Federal Deposit Insurance Act [12 U.S.C. 1813(a)]);

(ii) Brokers, dealers municipal securities dealers, municipal securities brokers, government securities dealers, and government securities brokers, as those terms are defined under the Act;